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PAUL D O'BRIEN

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EXAMINER

ROBINSON BOYCE, AKIBA K

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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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3  
4 BEFORE THE BOARD OF PATENT APPEALS  
5 AND INTERFERENCES  
6

7  
8 *Ex parte* PAUL D. O'BRIEN  
9 and  
10 MARK E. WIEGAND  
11

12  
13 Appeal 2009-002955  
14 Application 09/043,406  
15 Technology Center 3600  
16

17  
18 Decided: August 26, 2009  
19  
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21  
22 *Before:* MURRIEL E. CRAWFORD, JOSEPH A. FISCHETTI, and BIBHU  
23 R. MOHANTY, *Administrative Patent Judges.*

24  
25 CRAWFORD, *Administrative Patent Judge.*  
26

27  
28 DECISION ON APPEAL  
29

30 STATEMENT OF THE CASE

31 Appellants appeal under 35 U.S.C. § 134 (2002) from a final rejection  
32 of claims 53 to 57 and 61 to 67. We have jurisdiction under 35 U.S.C.  
33 § 6(b) (2002).

1 Appellants invented a service provision system for use in distributed  
2 processing environments (Spec. 1).

3 Claim 53, illustrative of the subject matter under appeal reads as  
4 follows:

5 53. A distributed computer programmed to  
6 provide a multi-agent system having a plurality of  
7 interoperating agents, each agent comprising:  
8 an input for receiving a service request for a  
9 composite service;  
10 processing means for processing the  
11 composite service request;  
12 negotiation means for use in establishing  
13 conditions applicable to provision, by one or more  
14 other agents in said multi-agent system, of one or  
15 more component processes involved in provision  
16 of the composite service, said negotiation means  
17 being adapted to assemble said conditions  
18 proactively by negotiation prior to receipt of said  
19 composite service request;  
20 an up-datable data store;  
21 means to access said up-datable data store  
22 for storing said conditions when established and  
23 assembled; and  
24 an output for providing a response to the  
25 composite service request, said response  
26 comprising an indication of availability of the  
27 requested composite service;  
28 wherein the processing means is adapted to  
29 process a composite service request by accessing  
30 one or more of the previously established  
31 conditions, for supply of component processes by  
32 said one or more other agents, in the data store,  
33 processing the request using the one or more  
34 established conditions and producing said  
35 response.

1       The prior art relied upon by the Examiner in rejecting the claims on  
2 appeal is:

3       Carr                                   US 5,608,446                                   Mar. 4, 1997

4       The Examiner rejected claims 53 to 57, 61 to 64, and 66 to 67  
5 under 35 U.S.C. § 102(e) as being anticipated by Carr.

6       The Examiner rejected claim 65 under 35 U.S.C. § 103(a) as being  
7 unpatentable over Carr.

8  
9                                   ISSUE

10       Have Appellants shown that the Examiner erred in finding that Carr  
11 discloses a composite service request with one or more component processes  
12 involved in provision of the composite service?

13  
14                                   FINDINGS OF FACT

15       The Specification teaches that a number of separate services can be  
16 combined in providing a single service (Spec. 14). A composite service to  
17 “provide a customer quote” would be made up of component services: a  
18 legal advice service, a cost and design customers network service, and a vet  
19 customer service (Spec. 20; Fig. 6)

20       Carr discloses a method for combining high bandwidth with low  
21 bandwidth data transfer (col. 1, ll. 1 to 3). As depicted in Figure 1 the  
22 system includes a plurality of enhanced service providers 10A . . . 10N that  
23 communicate through a telecommunication network 14 with a split channel  
24 bridging unit 18. The split channel bridging unit 18 routes communication  
25 through a low bandwidth path through modems 1. . . N to a public switched  
26 telephone network 24 to the modem 76 connected to the customer’s

1 personal computer 74 and through a high bandwidth path through  
2 modulators 46A . . . 46N to a cable distribution head end 30N to a splitter 58  
3 and home controller 70 to the personal computer 74 (col. 7, l. 58 to col. 9, l.  
4 43). The decision to route the communication through the low bandwidth  
5 path or the high bandwidth path is made by a processor 48 within the split  
6 channel bridging unit 18 (col. 8, ll. 42 to 47). If the processor 48 determines  
7 that the high bandwidth path is needed, the processor 48 determines whether  
8 sufficient bandwidth capacity is available for the information to be  
9 transmitted through the high bandwidth path (col. 9, ll. 6 to 9). The router  
10 routes the information through one of the modulators 46A-46N (col. 4, ll.  
11 (col. 4, ll. 3 to 6). The processor 48 controls the operation of the router 42  
12 and contains a database that includes the bandwidth of each of the channels  
13 28A . . . 28N associated with modulators 46A-46N in order to determine  
14 which modulator to use in order to more efficiently route the information  
15 (col. 4, ll. 16 to 21; col. 9, ll. 44 to 49). Carr also discloses that the service  
16 provider can also make the decision of whether to route the information  
17 through the public switched telephone network or through the cable  
18 distribution head. To accomplish this aim, the service providers are  
19 provided with an ongoing update of the channel 28A. . . 28N availability  
20 through modulators 46A . . . 46N (col. 9, ll. 53 to 56). Negotiation is  
21 necessary between the split channel bridging unit 18 and the service  
22 providers in order to assign and allocate bandwidth (col. 10, ll. 5 to 9).

23 The Examiner states:

24 in Carr, negotiating involves allocating bandwidth,  
25 and as shown in Col. 10, lines 31-36, there is a  
26 *plurality* of 6 megahertz bandwidth RF channels to  
27 be made concurrently available. Therefore the

request can be allowed based on 6 different bandwidths since users are permitted to receive high-speed signals over the cable television network via one of a selectable number of RF channels, and in order to make an allocation [of] *one out of the plurality of 6 megahertz bandwidths* must be negotiated for each request, which therefore represents being composite.

(Ans. 11).

## PRINCIPLES OF LAW

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. Inc. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir.), *cert. denied*, 484 U.S. 827 (1987).

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988).

## ANALYSIS

We will not sustain the anticipation rejection of the Examiner because Carr does not disclose a composite service request. The fact that the transmission can occur through one of six channels does not make the request in Carr a composite. As recited in claim 53, a composite request requires that component processes make up the request. A composite request is disclosed as including a legal advice service, a cost and design customers network service, and a vet customer service. As such, the request involves more than one process that are components of the service. This is not disclosed in Carr. Therefore, we will not sustain the rejection of claim

53, or claims 54 to 57 dependent thereon, under 35 U.S.C. § 102(e) as anticipated by Carr. We will also not sustain the rejection of claim 61 and claims 62 to 64, 66, and 67 dependent thereon because claim 61 also discloses a composite request.

We will not sustain the Examiner's rejection of claim 65 under 35 U.S.C. § 103 as being unpatentable over Carr because claim 65 depends from claim 61 and thus requires a composite request. As we stated above, Carr does not disclose a composite request. In addition, Carr does not suggest a composite request.

#### CONCLUSION OF LAW

On the record before us, Appellants have shown that the Examiner erred in rejecting the claims.

#### DECISION

The decision of the Examiner is reversed.

#### REVERSED

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